SB Civil Writ Petition No. 6591/1999

The Assistant Engineer, PHED Vs Surendra Kumar Saxena & anr

1.10.2007

Hon'ble Mr Justice Ashok Parihar

Mr JK Agrawal, Addl GA – for petitioner

Mr Deepak Goyal – for respondent No.1

BY THE COURT:

Petitioner has challenged the award dated 19.1.1999 passed by the Labour Court, Kota, by which, while holding the termination of the services of the respondent No.1 (the concerned workman) as illegal and unjustified for violation of section 25-H of the Industrial Disputes Act, 1947 (for short 'the Act'), the concerned workman has been ordered to be reinstated from the date fresh person was given appointment i.e. 6.9.1989 and also pay 30% back wages from the above date.

After hearing learned counsel for the parties, I have carefully gone through the material on record.

The Labour Court, on the basis of finding of fact and admission on behalf of the petitioner also that there has been clear violation of section 25-H of the Act, has passed the award. I find no error or illegality in the

award of the Labour Court in reinstating the concerned workman from the date fresh person was given appointment, however, looking to the nature and duration of employment, I find no justification in allowing any back wages to him.

Accordingly, the writ petition is partly allowed. The impugned award dated 19.1.1999 passed by the Labour Court, Kota is modified to the extent that the concerned workman shall not be entitled for any back wages as ordered by the Labour Court, however, other reliefs to the concerned workman will remain the same.

(Ashok Parihar) J.

bnsharma